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Depew, Chauncey.

Argument of...Before the Assembly
Committee on Railroads...

Albany, 1880.

ARGUMENT

OF

HON. CHAUNCEY M. DEPEW.

GENERAL COUNSEL OF THE NEW YORK CENTRAL AND HUDSON
RIVER RAILROAD COMPANY.

BEFORE THE

ASSEMBLY COMMITTEE ON RAILROADS,

IN OPPOSITION TO THE BILL

“AN ACT TO REGULATE THE TRANSPORTATION OF FREIGHT
BY RAILROAD CORPORATIONS.”

AND ALSO THE BILL

“AN ACT TO CREATE A BOARD OF RAILROAD COMMISSION-
ERS AND TO DEFINE AND REGULATE THEIR
POWERS AND DUTIES.”

MARCH 17, 1880.



ALBANY:

PRINTING HOUSE OF CHARLES VAN BENTHUYSEN & SONS

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*Presented
Charles Van Benthuyzen
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ARGUMENT.

The CHAIRMAN—The Committee will come to order; Mr. Depew has the floor.

Mr. CHAIRMAN—I have appeared many times in the last fifteen years before committees of the Legislature in the discussion of these freight problems and measures affecting the railways of the State. Heretofore I have been almost alone, surrounded on all sides by hostile elements and regarded as the incarnation of that monopoly which the English dictionary failed to furnish a vocabulary sufficiently large to characterize and foreign tongues were brought in by those who understood them. But I am here to-day, at the close of a discussion, the most extraordinary ever witnessed in this State, and in the midst of a gathering before this Assembly committee the most wonderful we have ever seen, in which the business, manufacturing, industrial, and agricultural representatives of the State have appeared on the side of the railway companies, and we, instead of standing in the front and battling for our lives, have been compelled to take a back seat.

Now, then, Mr. Chairman, this most extraordinary spectacle has been brought about by processes to which it is necessary briefly to allude. The appeal to the Legislature which resulted in the appointment of this special committee did not come from any interior town, did not come from any interior city, did not come from any manufacturing, farming or business interest in the State, save one. By processes which we could not control, and which nobody could control, the jobbing trade of the city of New York had largely slipped out of the hands of the merchants in the city of New York, who had had the monopoly of it for a hundred years, and a portion of it, by the natural laws of trade, was transacted in the great centers in the central and western parts of the State. The jobbing interest of New York, consisting of about thirty-two houses engaged in this business, noting this fact, determined to get it back, and they came to the Legislature pleading their cause; but here they were met by the whole State on one side, they being on the other. Then they began an agitation, and worked it up with a shrewdness and ability

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which arouses my earnest admiration. Mr. Thurber admitted upon this floor last week that he set this ball in motion and brought about these results by the free use of printers' ink. There is, and always has been in the State of New York, a sort of slumbering feeling, on the part of the agricultural classes, that the western trade was interfering with their products and farms. It originated long before the railroad was built. It began when the Erie canal was put through and brought the farmers of the northwestern States in competition with the farmers of this State; and the farms of the Mohawk in competition with the farms of the Hudson river, the farms of the St. Lawrence river and of the southern tier. In looking back over the discussions of that day, I find that the farmers of these localities fought with the fiercest energy and unanimity the building and opening of the Erie canal, and claimed that they would be ruined by these transportation facilities bringing the cheaper and richer lands of the interior and western part of the State, and of the western Territories, in competition with them. The present outcry against the railroads, from all sources, bears no comparison to the feeling exhibited against the canal at that time, by the farmers alone.

Now Mr. Thurber and his committee appealed to this agricultural element, and formed an organization which was partly agricultural and partly political. His committee furnished it with its pabulum of documents, filled with a skillful blending of facts and fancies, admirably calculated to arouse local passions, and on that created a sort of representation in the country. Then came the unparalleled business depression, succeeding 1873, with its panic, when, owing to excesses growing out of speculations following the war, universal bankruptcy fell upon the whole land, and all enterprises were either stagnant or ruined, when thousands of men were thrown out of employment and thousands of industrious men became tramps upon the highway. Appealing to these misfortunes, which we could not control and in which we were all sufferers, he said "the railroads are the cause; let us go to the Legislature and get relief." Well, gentlemen, he came to the Legislature and they gave him his committee. It sat for eight months and its labors are before you. We are here to discuss both its report and the statutes which it formulated.

Now in regard to that committee I have no words except those of commendation and praise. That committee was composed of men of intelligence, integrity and character; but it had the misfortune, which is inevitable in all such cases, of having upon it gentlemen who were not familiar with the great transportation problems of the day, and whose education must come not from experience but from the limited opportunity afforded by the investigation. There was upon it none of the

great shippers who control this vast business which has created New York; there was upon it none of these manufacturers whose interests have been presented here with such force and emphasis during the past two weeks; but the committee went to work with rare intelligence, great skill and industry to develop the facts bearing upon these complaints to see if they really existed; if remedies could be devised. They threw their doors wide open. The Associated Press and every machinery of advertisement was brought to bear to bring before them every possible grievance and every possible complaint. Wherever in the State a complaint was made there they went and sat, in order that no excuse could be offered that it was impossible for these people, on account of their poverty or their inconvenience, to reach the place where they could get their grievances before the committee. After sitting for eight months, after advertising to the North, the West, the East, the South, and the interior of the State, if any locality has a grievance we do not ask it to come to us we will go where it exists. What is the result? It is before you in these five large volumes. No representative of the great manufacturing interests of this State appeared, no locality in which this thriving business is done appears.

The Produce Exchange is unrepresented, the Chamber of Commerce is unrepresented, the Butter and Cheese Exchange is unrepresented, the American Exchange is unrepresented; these great bodies, and others which hold in their hands all the commerce and all the trade of the great metropolis are wholly unrepresented in the testimony before this committee. The manufacturers, the jobbing and retail merchants of Syracuse, of Utica, of Rochester, of Albany, of Troy, are none of them to be found here with one single word of complaint; and outside of the testimony which was taken from the lips of the railroad officers and employees, there is no testimony bearing upon this transportation question, except that of one or two witnesses in the city of New York who swore to immaterial facts; the millers of Rochester and the pork packers of Buffalo. All the grievances of the twenty millers of Rochester and of the half-dozen pork packers of Buffalo were due to causes beyond the reach and past the control of the railways of the State of New York, and wholly within the jurisdiction and within the control of railways chartered by other States and outside of your power to reach or to limit. On the one side, in these five bulky volumes of testimony, there is arrayed only the testimony of these limited interests, represented by less than twenty witnesses; and on the other side, the great manufacturing, the great industrial and the great agricultural interests of the State stand silent because they had no complaint to make. When the work of this committee comes before you for your action, what then happens? When they are called upon to present their bills, they find themselves facing a problem which has received the attention of the

best administrative, the best railway, the most experienced talent in this and other countries, resulting in a confessed inability to solve it. In their report, with great ability and fairness, they state the difficulties which surround them; and I am not surprised that when they come to formulate these difficulties into bills, those bills meet the opposition which here presents itself, because it was impossible, with their experience and with any knowledge which they acquired in that investigation, if they had possessed the combined talents of Daniel Webster, Henry Clay and John C. Calhoun, to have presented bills to meet these difficulties without crippling the railways and ruining the industrial interests of the State. Nothing better illustrates the exact condition of this question than the presentation of it which has occurred here before yourselves. Who appear here on the one side, and who on the other?

In the two days the manufacturers, merchants and produce dealers were here, there came 1,200 to 2,000 men, and they represented between three and four hundred millions capital, and some 300,000 employees, and in the families dependant upon those employees, in the incidental business, grouped around and dependant upon their factories, stores and dealings, they spoke for not less than 3,000,000 of the population of this State; and against that 3,000,000, who appear on the other side? The call is loud, the drums beat, the alarm is sounded and every element favorable to these measures which could possibly be mustered came here last Thursday, they were less than a score in number, only the old jobbing interest of the city of New York, which set this ball in motion, the representatives of the affiliated political agricultural organization which they had created, and two or three honest and well-meaning men who spoke only for themselves. Mr. Sterne came, prophet and apostle of railway reform; Mr. Sterne, an able and learned lawyer, but who never shipped anything in his life except himself; who has studied the railway problem and read books upon it, until it can almost be asserted that "much learning hath made him mad;" he told me that he had read every one of the amalgamated English reports, which are three feet square and form a pile five feet high, and no man could wade through them without serious danger of permanent water on the brain. (Laughter and applause.) He developed his usual and well-known views on this subject, and what do they amount to? Simply, that upon general and broad principles there must be an equality of dealing all over the world, and unless there is, we are in constant peril of universal disaster. I do not propose to criticise Mr. Sterne's address any further than this: when we were together before this investigating committee, I said to him, "Mr. Sterne, suppose your theories prevailed; suppose you tie up with an iron-clad statute, or any statute, the railways of this State to-day, which drives them out of competition for the through business and raises their local rates and

diverts over affiliated lines with short hauls in this State the business of the State to Philadelphia and other seaboard cities, what then?" "Why, sir," said he "you will establish the great principle of truth and justice in the State of New York, and as soon as Pennsylvania and Maryland and New Jersey and Massachusetts see it they will not let New York suffer many years before truth and justice will prevail in those States." (Laughter.)

The only trouble with his proposition is that the business men of this State, the manufacturers, wholesale and retail grocery men, dry goods men and farmers of this State, have not in them that sublime spirit of martyrdom which will permit them to loose their fortunes in order to impress these moral lessons upon rival and neighboring localities which are benefited and enriched by their devotion to this view of truth and justice. (Applause.) My eloquent and versatile friend, Senator John O'Donnell, came here. The President of the Utica & Black River Road has stated his magnitude as a shipper. He paid me many compliments for which I am much obliged: but one statement that he made I think fairly characterizes the accuracy of the whole of his argument. He said that Mr. Vanderbilt and himself started in life together, that he knew him when he had only a few thousand dollars and that he died worth a hundred millions; while he, Senator O'Donnell, with equal industry and abilities, and working just as hard had accumulated but little in comparison. The Commodore died five years ago at the ripe age of eighty-two, and Mr. O'Donnell as he stood here and fulminated his vigorous eloquence, struck me as the best preserved orator I ever saw in any assembly whatever. (Laughter.) Then John O'Donnell No. 2, (for we had two dromios in this farce), (laughter) appeared and said that he was a high officer in the State Farmers Alliance, and unless this legislature did what he told them the vengeance of the people would take their political lives at the first opportunity. A member of Assembly who stood behind me said, "who is that?" said, I "One of the great officers, I don't know what they call them, of the Farmers Alliance in this State." "He a farmer?" "He so states" "why," says he "he has been arguing before my committee this afternoon to have us report a bill to raise the rates for legal advertisements because he publishes a country paper down in Jamaica, Long Island, and wants them increased so that he can have a special rate for the benefit of that local journal. (Applause.)

Then Mr. Kilmer came. Now, Mr. Kilmer is a genius in his way. Kilmer is the great milk man—representative of the milk dealers. Kilmer came here last winter, and brought not only his association of middle men, but also the milk producers of Orange, Westchester, Dutchess and Columbia, for the purpose of demanding a reduction in the tariff on milk. The pressure was so great that we called to-

gether the farmers. I said to them, "I am authorized by Mr. Vanderbilt to say to you, that without any bill we will reduce your rate twenty-five per cent., one quarter, and then I will stake my existence against a russet apple that you do not get one farthing of it; that the consumers get no benefit from it, and that it will simply take money out of our treasury, and put it into the pockets of these dealers. What was the result? We made the reduction of one-quarter in our rate, and when we got Mr. Kilmer on the stand, on a cross-examination, we made him swear, that as a middleman and milk dealer, he never gave one penny or one farthing of it to the farmer, never gave a penny or a farthing of it to the consumer, but he and his associates pocketed it all themselves, and when Mr. Tozier of your committee asked him last week if that was not so, what was his answer? Mr. Tozier said, "Did you give the farmer any benefit of this?" "Yes." "Well, how?" "Why, if the railroad hadn't reduced the rate, we would have reduced the price to the farmer." The answer reminded me of the argument of the brigand, who claimed the mercy of the court because if the victim had not given up his money he would have taken his life. It is unnecessary to go through with the other gentlemen. My friend, Harris Lewis, is one of those honest, well-meaning men for whom I have a great respect. He has the integrity of his convictions and of his life behind him. He submitted both of them to the popular verdict last fall. He got 9,000 votes out of 900,000, and he told me, as he sat here during the debate, that the only reason why he didn't get them all, was because he could not induce the people of this State to look at the question just as he did. (Laughter.)

Now, then, gentlemen, another spectacle. When this bill was first presented to the legislature, it received, as all such things do, the assent of nearly all the men both in and out of the legislature. When I spoke to one or two members, and endeavored to point out to them some difficulties which I thought existed in the bill, they looked at me as a railroad lunatic who could not be satisfied; as much as to say, "when we have the ability to crucify you and only propose to put you in the stocks, how unreasonable you are?" But, gentlemen, when this bill was subjected to the criticism of the experienced railroad men of the State, when it was subjected to the criticism of the business men and manufacturers of the State, when it was subjected the criticism of the men who do the business of the State, then the theoretical reformers who favor the measure, saw and acknowledged the defects and consented to remove them. They made five important amendments to this bill, which otherwise and heretofore was so perfect that it could not be touched. They took out the passenger clause, they took out the pro rata clause, they took out the express clause, they guarded against the terminals and if they had stayed here one more day the bill would have been disemboweled and

nothing but the title left. The report of the special committee iterates and reiterates with great emphasis precisely the difficulties of this situation which they attempted to solve. Here on page 72 of the report they say, "we might cripple the prosperity of New York; we might enact laws that would build up Jersey City and transfer the legitimate growth of New York to the Jersey coast. It is as imperative that such consequences be avoided as it is that present wrongs be redressed. While the laws of commerce ignore political divisions wholly, our jurisdiction is circumscribed by the limits of the State of New York."

Then on page 74 they say "our railroads should be forbidden to make secret rates, and compelled to treat all shippers alike; but the propriety of compelling the publication of rates, and the publication of all proposed changes is a matter for your serious consideration." And yet the bill in its practical effect amounts to that.

On page 75, they say: "The business of transportation requires the greatest freedom of management of any business extant. This is manifest to the most casual observer." Now, there is no business extant that is hampered by the iron law of statute; there is no manufacturing interest, no commercial interest, no agricultural interest that is restricted, except by the universal laws of trade; and if this railway business, in the language of this committee, requires greater freedom than any business extant, what propriety or necessity is there for these bills, which impose limitations and restrictions under which no other industries could live? The trouble with all this question is, that the complainants are gentlemen who never use the railway. The parties who are satisfied are the people who do.

An occasional farmer who tills a few acres, who never ships anything, but sells all he raises at home, and finds a ready market for more than he can supply at the village, factory, or store in his immediate neighborhood; the local politician who is looking for an issue upon which he can work himself into office as the people's friend; the citizen who has no occupation, but sits on the dry goods box, or the nail keg, and plays the oracle upon all questions, these people, and there are many of them, read the tracts of the board of trade and transportation, and retail them in support of this legislation. But the farmers who ship over the road, the produce buyers who give them New York prices at their own doors, the merchants who receive their stock by rail, the manufacturers whose existence is dependant upon freight charges, the dealers of every kind who keep trade flowing through these great arteries, are unanimously opposed to it.

The difficulty with all this question is the limited and circumscribed jurisdiction of the State. This great railway system was never contemplated when the Constitution of the United States was framed. To-day it has leaped over all political limitations, and

New York and San Francisco, New York and St. Louis, New York and Chicago, are the termini of continuous lines, and all that this Legislature can do is to take the railways of the State of New York by the hair of the head and lift them out of the national system, and hang them up to dry. But if they do, the great business of the country will go on around New York just as well, just as profitably, just as economically as it does through the State, and the only community injured, the only people injured will be our own citizens, our own industries and our own business.

This bill necessarily adjusts the local to the through freight under heavy penalties. With the rates of the great through business of this country the railways of the State of New York have no more to do than the man in the moon. They are fixed at some 300 points in the great west, and they are fixed there by competing and connecting lines for the purpose of getting business. The western cereals pour into some reservoirs, like Chicago, Milwaukee, St. Louis, Detroit, Cleveland, Toledo, Indianapolis and Cincinnati, and there the Grand Trunk wants them to take through Canada to Boston; there the Pennsylvania road wants them to take through Pennsylvania; there the Baltimore & Ohio road wants them to take through Maryland to Baltimore; there the Mississippi river and its barges want them to take down the Mississippi to New Orleans; there the Chesapeake and Ohio wants them to take down to Norfolk, and there we want them to bring to the State of New York. The only way we can get them is by competition with rail lines, lake lines and river lines, all hostile to our interests and the interests of our State. Yet we do successfully compete because we say to these western lines, "make whatever rate you find necessary, only get the business, give it to us and we will take care of it, and take our share of it, whatever it may be. We have from 150 to 200 miles longer haul; we have a lighterage charge in the city of New York which Baltimore has not, Philadelphia has not, Boston has not, that in effect adds 200 miles more to our route, and yet, in spite of all that we will bring this business through the State of New York if you will make the rate that gets it." And the bringing of that business through the State has made the State of New York all that she is to-day. Without it what would have been the State? It would have had a limited population at its seaboard, and limited industries in its interior. Without it the State would have had none of these great cities and thriving towns which dot it everywhere. Without it she would have been provincial; while to-day she is an Empire, dominant over all of her sister States—first and foremost in population, wealth and prosperity. Gentlemen fail to appreciate the magnitude, vastness and importance of this through business when they talk so lightly about this matter. We bring to the city of New York more of the product of the West than

are carried to all the other seaboard cities combined, and the handling of that vast commerce brings back the imports to the city of New York, places in our hands hundreds of millions of dollars a year, which roll over into manufactories, roll over into country cities, roll over into business, roll over into everything which creates localities, business, population and prosperity.

When the Erie canal was opened the farmers of the State of New York had the West brought in competition with them ; but the compensation to the farmer of the State of New York is, and has been, that the handling of those immense continental products, brought here by canal and rail, has created and produced, within the limits of the State of New York, those industries, here and there and everywhere, which have made centers of population and local markets which absorb all he can raise. If there is any surplus the produce buyer goes out to the farmer who has a few bushels of apples, potatoes or wheat which he could not ship to the city of New York employing commission merchants and incurring necessary expenses without losing the whole profit. The produce buyer first comes to the railroad and gets a special rate that will enable him, on account of the quantity, to move his full carload very cheap ; then he goes to the small farmer and buys from him at the market price, saves him his commission, and gives him the benefit of that special rate and ten times more. The competition is so active among these produce buyers that the highest market prices are always paid. I reckon eight-tenths of the farmers of this State sell their products directly to the community around the manufactories which exist in their localities, by main strength of a special rate, and the other two-tenths dispose of them, at a New York price, to a produce buyer, who gives them the benefit of his wholesale freight rate as an inducement for the purchase. So that practically, in the distribution and dissemination of rates, the people of this State are not discriminated against even in the smallest shipments, and at the same time they derive incalculable benefits from the through business. The volume of this through business has been such that it has enabled the railways of this State, within the last eight years, to reduce the rates upon all classes of local merchandise more than one-half ; whereas, if we were deprived of that great traffic and doing exclusively a local business, we would raise our local rates necessarily, and the farmers of the State would have neither the home manufactory right at his door to sell to, or be able to live on his farm and get his products to the city of New York. These gentlemen say the policy of the New York Central railroad is to crush out, and that it has crushed out, the local business on its line ; yet since 1872, in the face and eyes of this great commercial depression, the local business has increased thirty-five per cent. There are 500,000 farms in this State, and 36,000 new ones have been brought under cultivation during that period ; a result

which would have been impossible unless the railways of the State had furnished the farmer a manufactory in his neighborhood, or a produce buyer so that he could live and make money. The railroads of the State of New York furnish cheaper passenger fare and furnish cheaper freight rates than any railroads in the world. The passenger rates in Connecticut, on all the railroads in the State, are four and a half cents per mile per passenger. In Maine they are from four to five cents per mile per passenger. In Pennsylvania they are three and a half cents per mile per passenger. In Michigan they are three and a half cents per mile per passenger. In Illinois they are four cents per mile per passenger. In Minnesota they are four to five cents per mile per passenger. In Colorado they are ten cents per mile per passenger. In England they are four cents per mile per passenger. On the continent of Europe they are from four and a half to five cents per mile per passenger, and in the State of New York they are three cents per mile, and on the New York Central & Hudson River Railroad they are two cents per mile per passenger, one-half the average rate of all the combined railroads in the world. (Applause.) The railroads in Connecticut, taking them all together, charge six and a half cents per ton per mile for freight. In Maine four and a half cents. In Massachusetts four and a half cents. In Pennsylvania, five cents. In Ohio six and three-quarter cents. All the railroads in New York, altogether, big and little, through and lateral, charge three cents per ton per mile, and the New York Central charges ninety-three hundredths of a cent per ton per mile. (Applause.) That is what this grasping and overshadowing monopoly, does for the State of New York. The railroads of the State of New York earn ninety millions of dollars a year of which sixty millions is taken, by way of toll, out of the products, and people of the great northwest, and every dollar is spent in the State of New York. There are seventy railway corporations in this State of which only seventeen pay dividends, and on the total cost of the railways of this State their total net earnings only yield three per cent upon the investment. There is not, from one end of these five volumes of testimony to the other, one iota of evidence that a freight rate was ever given for favoritism, for corruption, or for reward. The combined testimony of every man who appeared before that committee, and of every man who did not appear, is that the rates given by the railways of the State of New York are given for business reasons with business justifications; that they are given upon principles which must regulate all railroad transportation, magnitude, bulk, haul, time, expense, and movement; that they are given for the purpose of developing and doing the business. Why, gentlemen, if the New York Central Railroad, situated as it is, had followed a policy during the last twenty-five years, such as would be enforced by the operation of a law regulating and depending

every local shipment, upon every through transaction and special rate, either by distance, or maximum rates per ton, per mile, or any of the panaceas which are presented, from time to time, all the business of this State would have been done at New York and Buffalo, and the rest of the line would have been a sparsely populated farming community. When this committee states that competition can no longer regulate the railways of the country, when they say the Legislature must step in, because competition has failed, they must except the New York Central Railroad. The rule might apply to a lateral road, and does where it is the only outlet and only inlet to the territory it feeds; it might apply in some measure to the Erie road on a portion of its line. But look at the situation of the New York Central. In its through business it meets every competitor on the continent. In its local business the canal and Hudson river touch it at every station, and the captain of the steamboat, sloop, barge or canal boat at every station steps into every store and into every shop, and competes with it for business. Every twenty miles a railroad from a neighboring State reaches the line of the New York Central, and tries to take away its business, so that this road has for nine months in the year the canal and the Hudson river touching every single station, and the whole year round, at Buffalo, Batavia, Rochester, Utica, Syracuse, Oneida, Albany, Schenectady, Troy and other points, roads with only a limited line in the State, and the rest running outside the State, outside of your jurisdiction, competing for its business and fixing and regulating its rates. Railroads owned and controlled in the State of Pennsylvania, running to the city of Philadelphia by a shorter line from the same points than we have to the city of New York, are every one of them to-day saying, "For God's sake, gentlemen of the legislature, tie up the New York Central Railroad, and we will get rich and carry the product of the State to the city of Philadelphia." No such competition—so active, so terrific—exists anywhere as that which assails the New York Central & Hudson River railroad. When you talk about discrimination, do not these discriminations exist everywhere? Where do they prevail more than on the line of the Erie canal, Lake Champlain and on the Hudson river? The proprietor of a line of boats on Lake Champlain told me last night, "We charge more for twelve miles than we do for one hundred and fifty." This bill does not propose to regulate water-ways. Says I, "Why do you do that?" He says, "For the 150 miles we have our equipments complete at both ends, and it costs us nothing additional to put freight on the boat. For the twelve miles we are obliged to keep up an expensive equipment, which does not pay at a *pro rata*, or even a limited part of the through rate. We have to employ special men, stop the boats, and lose steam, and so we charge more for twelve miles than we do for 150." Take the canal; the State

has made it practically a free water way. The State has discriminated in its toll sheet against its own citizen. The State has given to many agricultural products raised in the west, coming in direct competition with the farmers along the line of the Erie canal, an absolute freedom from tolls. It has imposed toll upon wheat, but wheat has ceased to be a material product of this State, because our wheat lands have given out, and the testimony of the millers of Rochester, was that the wheat of the Genesee Valley was now of so poor quality that it could not be milled to compete with flour made from western grain. Canal discrimination works in this way. The canal boatman goes into a village along the line of our road and steps into a store and says, "I am coming back empty, have you got anything in New York you want brought up?" "Yes, I have some flour, some sugar, some molasses, and some timothy seed; what will you bring it up for?" "I will bring it up for twelve cents a hundred." "Can't stand that; Captain Jones offered to bring it up for ten cents a hundred." "I will bring it for eight cents." "All right," he goes to a rival store keeper across the way and says: "Have you got anything in New York you want to bring up?" "Yes, sir; some molasses, some sugar, some flour and timothy seed; what will you bring it up for?" "Ten cents a hundred." "I do not care enough for it to pay that." "I will bring it for eight cents a hundred." "I do not care enough for it to pay that." I will bring it up for five cents." "All right, bring it up." That occurs every day in the week—discriminations, such as the railroads never practiced, and could not live under for a single hour, are of daily occurrence on the highway which cost ninety millions of dollars to the people of this State, and is made free to the boatman. There is not a bill in the Legislature to control this discrimination of the water carriers and not an effort in the Legislature to correct it: yet it is seriously proposed in this bill to tie our hands so that we cannot compete with either water ways or the foreign railways which tap our road. This is the trouble with competition on the line of the New York Central Railroad. Suppose you establish by law that no more shall be charged for a short haul than for a long one, that cotemporaneous shipments shall be precisely the same under all circumstances, and fix a heavy penalty for every violation. What follows? Why, if at Rochester, Syracuse, Geneva, or Lyons, we want to get business and prevent it going to Pennsylvania, and keep it in the State of New York, and take it to the city of New York, and knowing that we are bound by the law while they are free, these Pennsylvania companies compete and we try to meet it; we have got, on that day and at that time, to lower and regulate all our rates along the whole line to the reduction at the competing point, or else suffer the penalty or abandon the business, and no people understand this better than these lateral

lines. They know that we must permit them to take the whole of the business at a single point rather than lower our rates along the whole line of our road to keep the business at that place. Then the question arises, how do we keep the business in competition with them at that single point now? Simply, because if the Lehigh Valley attempts to steal away our business at Geneva or Lyons, or the Pennsylvania road at Rochester or Buffalo, or the Delaware & Lackawanna at Syracuse, Oneida or Utica, we meet them at that point on terms upon which they can get no business at all; and knowing that we hold that club, they do not dare do otherwise than fairly treat with us the business of that locality and take their legitimate proportion. And, holding this power, we can enforce equity of rates to competing and non-competing points alike. But if we had to adjust the business along 450 miles to the competition of one single station, then, of course, the road that reached that station in competition with us, running outside the State beyond the jurisdiction of your law, would take the business of that locality and carry it to foreign States and cities. Within one year after this bill became a law the whole business of the city of Syracuse, of which we now do ninety per cent, would be done by outside lines partly running to the city of New York, and partly diverging to the city of Philadelphia. While rates would be made from the city of Syracuse, which would make competition and business at places like Auburn, which are not reached by outside lines, utterly and wholly impossible. The bill under consideration is the product, as I understand it, of enactments partly in existence, and partly repealed in three or four States in the Union. I make this bold assertion: that in the States where the parts of this statute are now in effect the local conditions under which they were passed, are wholly different from the local conditions affecting the New York Central Railroad.

A statute might be passed which the Boston & Albany Railroad in Massachusetts could live under, having none of these competitions on its line, but which would absolutely ruin the New York Central Railroad, and drive it out of business. The experience of the Western States is suggestive. They entered into this business of legislation with unanimity and with great force and vigor, but when the blight of industrial manufacturing and agricultural depression fell upon their farms and business; when their credit failed, and they could get no money for their enterprises, they rescinded all their granger laws. But, while they were in force, seventeen railroads in the State of Illinois, and eleven in Wisconsin, went into bankruptcy, and the losses of the people of those States cannot be calculated in money, because it reached population, development and confidence, which, once lost, centuries cannot replace. Iowa, with its long lines far distant from each other, and having no local competition by rail or water, presented a fine

field for this kind of legislation, and conditions exactly the reverse of those which exist in this State. Yet Iowa, after a full trial, last year repealed most of her laws, because they proved equally injurious to the State and the railroads.

I will read the Iowa law, and you will see how much more liberal and elastic it is than the bill under consideration: "No railroad company shall charge any person, company or corporation for the transportation of any property a greater sum than it shall, at the same time, charge and collect from any other person, company or corporation for a like service from the same place, and upon like conditions; and all concessions of rates, drawbacks or contracts for special rates, founded upon the demands of commerce and transportation, shall be open to all persons, companies and corporations alike."

That law was repealed, and yet the New York Central Railroad, with hardly an exception, lives up to like principles to-day.

What I have said here upon the general question will largely apply to the second section of this bill. The trouble with your equal rate for a cotemporaneous shipment, regardless of different conditions, and applying alike to the man who contracts for a year and one who makes only single and casual shipment, is this: All the manufacturers who were before you testified that it was absolutely necessary for them to make time contracts; that before they had the cotton or the wool in their mills they had sold the manufactured product; and they could not sell that manufactured product unless they knew what the freight rate was going to be at the time it would probably be shipped; therefore they must have a contract in advance for the purpose of making their transactions. The contract is made, for instance, with the New York Mills at Utica, and upon that they base all their bargains and sales. The contract is a low one, because of the certainty and volume of the business, and is made for the purpose of fostering an industry in our State in competition with rival establishments in other States. But under this bill, on any day in the year, a like shipment of a single car-load for a single specific purpose must receive absolutely the same rate as we get on that day under that contract. The manufacturer loads and unloads his own freight, furnishes his own side-tracks and warehouses, gives us his whole business all the year round, and all of it goes out of the State to a distant market; and yet all of our local and purely State business must every day be done at the same rate as that manufacturer pays. This bill applies to the leased lines. The absolute cost, as far as it can be ascertained, of hauling a ton of freight over the New York Central, on account of its grades and the magnitude of its through business, will be ninety one-hundredths of a cent a ton a mile. The absolute cost of hauling a ton of freight over the New York & Harlem

railroad, which we lease, and which is a local line with only a local business, is six cents a ton per mile; and yet under these provisions we would be compelled to transport freight from some point on the line of the New York Central to a point equally distant on the New York & Harlem railroad at the same rate as we do upon the New York Central. If two shipments were made from the same point on the Central, one to go partly on the Harlem and the other wholly on the Central, the one on the Harlem might be the shorter and yet cost us five times as much as the one on the Central; but if we charged any more, we should be liable to all the penalties of this act. Then there is a clause in reference to making a combination rate over two connecting lines. That has been tried in the State of Massachusetts, and the Massachusetts people say they find it impossible to carry it into effect, that they can get no light from the railway commissioners upon the subject, and that practically it is a dead letter. For the simple reason that you cannot so adjust by law that the line which receives the goods shall fix for a connecting and independent road to which it may deliver them the price that road may choose, nor can you say that whatever the New York Central charges from New York to Syracuse, it shall make no greater rate over the Utica & Black River road to Watertown, when what would be a profit to the New York Central, would bankrupt this expensive lateral line for the same distance.

The third section of this bill prohibits special rates. I assert that the present position of the State of New York in its relations to the other States of the Union both justify and demand special rates, if New York would retain her local industries. There was a time when New York and the Eastern States furnished the West and South with all the manufactured articles they consumed; but facilities for transportation and the laws of trade are such that in the sharp competition of modern business, production and consumption every day come closer and closer together. To-day every kind of manufactory is in successful operation in Illinois, Kansas, Missouri, Wisconsin, Iowa, and Minnesota, right at the place where the products are to be sold. Under these circumstances iron foundries, agricultural machine works, cotton or wollen mills, stove works, wagon, glass and other factories, supplying the wants of those Western States have no business to exist in the State of New York. They remain here and prosper unnaturally and by violence. One of the speakers here last Thursday said, that if they did exist here unnaturally—then let them be blotted out. But as a citizen of New York, that man did not understand what he was talking about. If there is an agricultural machine factory at Auburn, Poughkeepsie or Hoosic Falls, and we carry the raw material to them for practically nothing, and then carry their manufactured products without profit to us and put them in Chicago along side of McCornack's manufactory so they can

be sold, in competition with him, who is injured in this State? What business is injured in this State? On the contrary we build up at Auburn, Poughkeepsie or Hoosic Falls a great manufactory which sustains and supports directly and indirectly, ten or fifteen thousand people. We get their local business to transact at local rates, and the State gets the use of that capital and the taxation upon that property. What business have iron industries at Spuyten Duyvil or Albany or Troy, when the same industries are located at Pittsburg hundreds of miles nearer to Chicago, fostered and encouraged by the Pennsylvania Railroad, and receiving a special rate, or located at or so near Chicago that they have no freight charges to pay. What business has the Troy or Albany stove works to compete with them? Only by such a violation of the laws of trade and transportation as would be impolitic and impossible if the United States had no state lines, and uniform laws governed every railroad in the country, and the statute which prohibited the New York roads from making special rates bound also the roads of New Jersey, Pennsylvania, Ohio, Maryland and Michigan. But we can make a rate for iron to the Troy and Albany foundry; we can make a rate for stoves from the Troy and Albany foundry, the raw material to it and the manufactured article from it which is secret and unknown to the Pittsburgh or Chicago foundrymen, but will place those stoves in Chicago, and the foundry can stay in Troy and Albany. It can draw millions of dollars a year from the people of Illinois, Iowa, Wisconsin and Kansas; it can bring that money back into the State of New York, to be spent in Albany and Troy. Twenty, fifty, yes a hundred thousand people can be supported and sustained, where we get the local rate on their local business, where the State gets the taxes and the benefit of the expenditure, and who is injured? Why, the stove works at Pittsburgh or Chicago are injured! The stove works at Pittsburgh or Chicago are discriminated against. And are we to legislate to transplant these stove works to Pittsburgh or Chicago because we have to violate the generally accepted laws of transportation, and to discriminate in order to unnaturally keep the business within our own State? (Applause.)

There are four hundreds of millions of dollars invested; there are three to four hundred thousand men employed to-day in the State of New York in manufactories, scattered from New York to Buffalo, making the prosperity, the population, the industry of every locality where they are, which receive their raw product from without the State, and transport and sell their manufactured articles without the State, in a distant market, in competition with similar industries located right at those markets, by discrimination, by evading the regular laws of transportation, by concealing the fact from their competitors in those States, and living at those markets. Who is injured? Why, men doing similar

work at Detroit, at Toledo, at Cleveland, at Milwaukee, at Chicago, at St. Louis, they are injured; they are discriminated against; they find these manufactures of New York, with all the expense of transportation which ought to be charged upon them, coming there and competing successfully with them in their own market. What is the result? The result is, that four hundred millions of capital are employed; that four hundred thousand men are busy and thriving; that three millions of the population of this State are supported, the towns thrive, and the farmers find a local market.* The State can be made the first manufacturing and agricultural, and the richest and most prosperous State in the Union, and yet we must stop it all to help Mr. Thurber to sell groceries in Syracuse. (Applause.) When I look at the spectacle presented here; the magnitude of the interests on the one side; the absurdity of the demand for restrictive legislation on the other, I am reminded of a lecture once given by the celebrated orator, Tom Marshall of Kentucky, at Buffalo. Wonderful as were Marshall's powers he never was more brilliant, more magnetic, more superb than on that occasion. The hall was crowded to its utmost capacity. Every time one of his splendid bursts of eloquence thrilled the audience so that the slightest whisper could be heard all over the house, the climax would be spoiled by a voice in the rear of the audience shouting "louder, louder." (Laughter.) Finally Marshall roused to profoundest indignation said, "when the end of the world shall come, and in the wreck of matter and the crash of worlds, Gabriel shall blow his trumpet, and the sound of that magnificent music shall fill the universe, and call the dead of all time from the sea and from the land, there will be a man from Buffalo, standing in that countless throng, shouting 'louder, louder.'" (Laughter and applause.) I do not want to be personal on Mr. Thurber or his committee. (Laughter.)

MR. W. C. CLARK—No, for he is a good deal better man than you are.

MR. DEPEW—Thank you for the compliment; because I know now just how good a man I am; and by the way, as my friend here says Mr. Thurber is a much better man than I am, a statement I will not dispute, allow me to digress for a moment, and read some extracts culled from his speeches and the publications of his committees, in illustration of the opinions he and his associates have of us railroad men: "an 'organized body' of 'reckless,' 'unscrupulous,' 'dishonest,' 'insolent,' 'despotic,' 'grasping,' 'terrible,' extortioners,' 'grinding down the people with an iron heel,' 'destroying all industries,' 'recognizing no responsibility to the government or State,' 'guilty of intrigue,' 'robbery,' 'rapacity,' and

* In 1870 the amount of capital invested in this State in manufacturing alone was \$366,994,320—giving employment to 351,800 persons who were paid \$142,466,758. The value of the products was \$785,194,651. In ten years the capital and labor employed, and the value of the products have increased, at the very least, fifty per cent.

'bribery; 'soulless,' (but some how or other 'crossing the chasm of death;') 'terrible foes to political aspirations;' 'more dangerous than Robespierre,' and 'worse tyrants than Nero,' though, as he says in another connection, 'no better or no worse than the rest of mankind.'" (Applause.) I am an old school Presbyterian and believe in total depravity and eternal damnation; but I think my friend Thurber has a worse view of it than I have. (Laughter and applause.) Gentlemen who hereafter in these discussions are at a loss to find terms in which to express their hostility to the railroads, ought to be very grateful to me for collecting this exhaustive vocabulary from which they can select at pleasure.

While it falls to my duty to criticise the position and views of Mr. Thurber, on these questions, and the methods by which he seeks to enforce his opinions, I respect the great energy and ability with which he prosecutes all his undertakings. I have seldom had an opportunity to agree with him, but the admissions made by him here last Thursday seem to me to surrender every excuse for the passage of this bill. In response to a question by a member of your committee, he said he thought the manufacturers in this State ought to be protected by special rates in their competition with manufacturers outside the State. Then you cannot pass this bill in its present shape, or in any form which has been suggested. Once admit the necessity of these discriminations and legislation becomes impossible. You cannot frame any general act which will not stop, at once, the granting of these privileges which the energetic and able leader of the friends of this measure here publicly declared to be both necessary and wise.

Why, gentlemen, to build up these manufactories there have been, within the time you have been members of this House, great numbers of bills introduced to exempt them from taxation, on the plea that the locality was willing to bear all the burdens to induce capital to start these industries in the neighborhood. Towns and villages have gone even further, and four or five years ago a perfect flood of bills were presented to enable villages to contribute to the capital of local manufacturers, and they were only defeated because they were unconstitutional.

I will call attention to only one other feature of this bill, which provides like rates for like classes of freight; this would compel us to carry pig iron, flour, sugar, molasses, grain and great numbers of articles in the same general classification, but totally different in bulk and value at the same rate. Railroad classifications are made for the convenience and not price. This law would compel us to make a different classification for every single article we transported, and make a volume larger than the Session Laws. Nothing better exhibits the jumble of conflicting statutes from which this bill is copied, than its various provisions in ref-

erence to charges by distance. The second section prohibits charging more for a shorter than a longer distance. The third section prohibits the same thing twice, and in different form and language; it also contains a strict pro rata clause. It is doubtful, upon any construction of all these provisions, if any business could be done without endless litigation. The limit of the car load I shall not discuss; that has been thoroughly exploded by others. The penalty part, I will say a few words upon. This bill provides that for every violation of it, no matter what it may be, or how innocently done, and you all see how difficult it is to interpret it, the party aggrieved shall recover the amount of his damages, and also \$100; the \$100 being in the nature of an informer's fee. Now, gentlemen, just see how this would work: a train load of fifty cars comes into Buffalo; in it are cars gathered from all over the west, each one with a rate made at some one of three hundred different places, so that our proportion of the freight charge, from the point of shipment to New York, varies with every car. One car may come from San Francisco, one from St. Louis, one from Milwaukee, one from Kansas City, and so on. Under the rates that are made, some competing, and some under the pool, every car in that train will have a different rate to New York, and our proportion of that rate from Buffalo to New York will be different on each car. Now, we cannot charge any more for a short haul, than we do for a long one. Then, how are we going to find out whether a contemporaneous shipment of a car-load of the same kind from Buffalo that day is charged more than some car-load in that train? The only way we can do it is to stop that train at Buffalo, examine the way-bills, telegraph to the points of departure for information, and have a committee of experts to sift and arrange each shipment, to ascertain what is the lowest rate on any car in that train, and then adapt our Buffalo, and our Rochester, Utica, and all intermediate rates, so as to avoid the penalty, to the lowest rate on that train. If it happens to be a time of cut-rates, when every train that arrives will have a different rate for every car, because the rate at Chicago changes every hour, then we have got to hold them until we can ascertain the lowest rates and notify every station along our line. That is simply impossible. To get this information, and adjust our local tariff at every station would compel us to hold every through freight train in Buffalo three days. In the first place, shippers would not stand it. In the next place, the connecting roads would not stand it, and we would have to give up that business, otherwise the Lake Shore & Michigan Central, and all our connecting lines would, as they could, give the whole of their business to the Pennsylvania at Erie, or to the Grand Trunk, and avoid all these difficulties. I do not want to multiply illustrations, but if you can get over that one I would like to have you do it, and have us escape the penalty and not violate the laws. If you can get over the illustration of the Lehigh Valley road either taking

all our business at Geneva and Lyons, or compelling us to adjust all rates over the whole line to any rate they see fit to take under this bill, at those points, I would like to have you do it. Now, as to these penalties, the people, you say, would never go to the expense of enforcing them. There is a syndicate of lawyers in this State who make it a business to sue the railroads. There are lawyers in every city and village along the line of our road (and I know it because I am the general counsel of this company, and it all comes to me, and barratry is no longer punished in this State) who are in collusion with sheriffs, justices of the peace, coroners and even our own agents, for the purpose of notifying them at the earliest possible moment of any grievance whatever, real or imaginary, against the railroad, whether it be a personal injury, a land case or a damage case of any kind. The moment they are notified they go to that man and ask him to sign a contract which reads about as follows: "I agree with John Doe to retain him to conduct this case against the New York Central Railroad Company, he to keep me harmless against expense, and I to divide with him one-half of the recovery." I have on my calendar to-day five hundred such suits brought in that way, and with the idea that we will settle rather than fight them, because following close on the heels of the summons comes the lawyer to us, who says: "It will cost you five hundred dollars to fight this case. If you will give me a hundred dollars, I will settle." There are now only few opportunities for this business, but you see how diligently they are improved. But enact this law, and with our two millions of transactions a year what would happen? Why, these lawyers in every place in the State would ask every shipper in their town to send his freight bills to their offices. They would have experts to look them over and examine them, and out of these way bills every day they would pick a dozen law-suits. Do the best we could, with all the railroad talent in the world and the purity of archangels we would make mistakes under this bill which would subject us to a thousand suits a month. The penalty under the passenger act is fifty dollars for each violation. In that case it is only a question of distance, and easily ascertained. It prohibits our charging more than two cents per mile. It is our duty to know whether the distance is correctly measured or not. But even under those circumstances we made a little mistake in the western part of the State, involving the difference of a few cents. Two enterprising lawyers found it out. They employed men for a year to ride up and down on the road, and take a minute of each passage. Then they brought suits. As soon as they were commenced the secret was out, and great numbers of attorneys went into the business. They sent to every man in Lockport, Tonawanda and Buffalo who had ridden on the New York Central road for six years, over that little piece, and said to them: "Can you recollect, so you

can swear to it, how many times you have ridden over the New York Central & Hudson River railroad, between Tonawanda and Buffalo, in the last six years; if so put it down and I will get you fifty dollars for each ride, providing you will divide the recovery?" Then the unprincipled ones enlarged it still further, and took names from the hotel registers, and among others the names of some of our directors, with the intent of having some loafer personate the party and swear he was the man who rode over the road on that day. We had no defense. We could not tell whether Jack Cole or Dick Turpin rode over the road on any particular day. We had nothing to identify him. That man could come into court and swear, "I rode that day." We were utterly helpless. The aggregation of penalties in those suits reached the sum of four millions of dollars; and then we paid about three hundred thousand and bought them off. Under this bill we would pay three millions a year to buy them off; but it would be a boom for the lawyers. (Laughter.)

Much has been said in this discussion of the Pennsylvania constitution and its provisions in reference to railroads. But the friends of this measure persistently conceal and misrepresent the situation in Pennsylvania. When that constitution was adopted it was provided that if at any time thereafter any railroad company desired any legislation in its favor it must stipulate to accept the anti-discrimination clauses of the constitution, otherwise their charters ante date that instrument, and it has no application to them. The Pennsylvania railroads need no legislation, and are, therefore, all free from the restrictions these gentlemen seek to place upon the roads of New York. Greatly as the Pennsylvania roads might desire to tie up their New York rivals with these provisions, which they reject, it is only ignorance of the relations of the Pennsylvania railroads to that constitution which could lead any one to hold up here for your guidance Pennsylvania's example.

The passage of this bill would work such a revolution in the development and power of this State, as no other single act has ever done. It would stop its growth and prosperity, close great numbers of its manufactories and active industries, and destroy the value of its farms. In the close communion of every kind of business with every other, and the interdependent relations of farms to factories, factories to centers of population, busy and thriving populations to general wealth and progress, legislation intended to cripple and restrict channels of commerce is the most dangerous of experiments. It is not claimed that this bill will help the universal revival of business, the blessings of which are felt everywhere. The most its best friends claim for it are some local and partial advantages to a few and limited interests, while it may prove a lasting calamity, not so much to the railroads, as to the

whole State. It is in proof already before you that one mill at Utica, with its capital of \$300,000, all subscribed, is unable to collect its subscriptions until the fate of this act is decided, and if it should become a law, I predict, that not only will that mill never begin operations, but in less than five years a special session of the Legislature will be devising methods to place New York once more in her old but lost position as the Empire State. Behind the corporal's guard who have come here to advocate this measure, stand the Pennsylvania, the Baltimore & Ohio, the Grand Trunk and the Lehigh Valley railroads, waiting anxiously to reap rich harvests from the trade diverted from New York over their lines by this supreme folly.

THE COMMISSION BILL.

There is one bill here which has not been discussed; that is the one relative to the appointment of railroad commissioners. This commission bill in its general provisions, is like the one which has made its annual appearance here for many years, and I presume is largely copied from the Massachusetts law. It is purely a recommendatory commission which costs \$45,000 per year. All that that commission can do, to correct any matters brought out in this testimony, is now done by the State Engineer and Surveyor, and with the bills already passed his powers are complete. I want to say right here, I hope the gentlemen of the investigating committee will not feel sensitive at my criticisms, I make them in the hope of shedding the greatest possible light on all sides of this question. When they say the result of their investigation is embodied in these six bills, and unless they all pass their effort is a failure, I think they are in error. Railroad legislation can be distinctively defined into two classes; one purely experimental, and whenever tried a failure, to run the business of the companies by statute, so that every freight agent must make a rate or a contract with a shipper, with a volume of the session laws in his hands; the other regulating the integrity of their management and control, and the proper and truthful exhibit of their affairs to the public. The testimony developed that there had been scandal in the use of proxies, that they had been bought by speculators who had thus secured the control without owning any stock. The committee have met and have overcome that difficulty. There has been great feeling against stock watering and the evils which flow from it. The committee have met that and overcome it. There has been great complaint of the evils that result from consolidation and the piling up of capital and debts. The committee provided successfully against that.

The main grievance of the professional railroad reformer for the past five years has been that railway reports were defective and the true

condition of the companies could not be ascertained. During the first days of the investigation, when the prosecution was groping around for greivances, this question of full and inquisitorial exhibits for the benefit of stockholders, bondholders and the public, was the burden of their eloquence. The committee, with great care and ability, have prepared a form of report to the State Engineer and Surveyor which shows the operations, and exhibits the exact condition of the railroads for the examination and information of any person who wishes to look at them. Every secret of the road in regard to its condition, its solvency, its management under the oath of responsible officers, who can be imprisoned for perjury, is laid before the State Engineer and Surveyor for the inspection of the public, the State and the Legislature. So that in these bills the interior of this question, the real greivances of railroad management, are met and overcome with great ability and clearness.

When it comes to a commission, I cannot see what a commission can do more than the State Engineer and Surveyor, an officer elected by the people. In every State where a commission exists to-day, the commissioner has no ministerial functions, simply because the transportation problem is one of national importance; the commissioner's authority stops at the boundaries of his State; he might possibly take his State out of the national system, but that he dare not attempt; he is tied hand and foot, and he is simply the recipient of the reports of the railways, and the transmitter of them to the Legislature.

If we had a commission in this State, it would be substituting three healthy patriots and their dependants to draw \$45,000 a year to perform the duty, now done by a bureau in the office of an officer elected by the people of the State and provided for in the constitution. In the bill itself is a singular anomaly. It authorizes the commissioners to recommend, if they think proper, the increase of transportation accommodations and rolling stock, alterations at stations, and changes in fares and freight. If the company does not accept their recommendations, they can report the company to the attorney-general for him to take action for the abrogation of their charters. If the company do adopt their recommendations, the fact that the commissioners made the recommendation under threat of loss of chartered rights if not adopted, does not relieve the company from legal liability for having followed the recommendation. Then the roads must stand between the two horns of the dilemma. We had a railroad commission in this State once; it lasted between two or three years. The people got tired of the commission, because it accomplished no good, and was thought to act in the interest of the roads. The railroads got tired of it, because it was a perpetual annoyance, and with the common consent of the people and the railways the commission was abolished.

A generation has passed since then, and there has been no attempt to revive it, until brought here in the last few years under pretence of railroad reform, but really to make places for the gentlemen who were disinterestedly giving their time to lobby it through. Will we have any better commission now? Are the times improved? Can the legislature, any more safely now than then, delegate its powers to three politicians? I do not believe much in paternal government, nor do I believe much in State supervision. We have had State supervision in this State for the last twenty-five years—the Bank and the Insurance Departments, created in each case to meet a political and not public exigency, to take care of individuals and not to protect the people. I know their origin. They were taken, one out of the the Comptrollers, and the other out of the Secretary of State's office, and created into departments with all the machinery of high salaried officers and deputies and clerks, and the ever increasing and costly paraphernalia of power. What is the result of twenty-five years of State supervision and State responsibility for these institutions? I say that it is a farce and a fraud. Fifty millions of dollars have been lost in this State within the last twenty-five years in Savings Banks, in State Banks, in Life and Fire Insurance Companies. Why? Because the State said to the depositors, the State said to the stockholders and policyholders, put in your money, never inquire, we will look after everything. The State put forth that pretence, and when the banks failed and the Insurance Companies became insolvent, the investigation always showed that the directors as well as the depositors and policyholders relied upon the paternal care and pledge of the State, instead of exercising for themselves constant scrutiny and watchfulness. If the State had required frequent and full reports of the condition of these companies to a responsible State officer, and said to the stockholders and creditors, with this data, you must exercise constant vigilance and inquiry, for the State neither guarantees or reimburses, who doubts that millions might have been saved.

But the conditions which apply to places of deposit—places that take care of other people's money—do not apply at all to the railroad. The stockholders and the bondholders look out for themselves; and so long as the railway commissioner must stop at the State line, and cannot reach beyond it, so long as he can neither touch or control lines outside the State competing with roads under his jurisdiction, so long he remains simply a bureau for the receipt and dissemination of information. It is claimed that, under this bill, the commissioners would look after and provide against accidents. What protection has a similar power given in other States? The commissioners of the State of Connecticut did not prevent the frightful, and almost inexcusable, accident at Tariffville, and when called upon to explain why it had not discovered in

time the defects of the structure which led to it, what did the State do? Upon the State rested the responsibility for the life of every man, woman and child who died miserably and horribly at Tariffville, because the State had said to all passengers: "We will see, by a responsible officer, that no accident of that kind occurs, and relieve both the traveling public and the railways of either care or responsibility? When the holocaust at Ashtabula happened, when fifty miserable people roasted alive in the gulch, where was the commission, and where was the State? Each one of those men, women and children traveled upon the faith and credit of State protection and supervision, and there burned and died in agony, because State supervision was a farce and a fraud. The claim is made that the commission can better watch the solvency of railroads, and protect the investing public; but under the very eyes of the Massachusetts commission—admitted on all sides to be the best ever formed—the Eastern railway collapsed, and the Boston, Revere Beach & Lynn Railway went into bankruptcy, causing frightful and ruinous losses to innocent people who were relying solely and wholly upon the protecting care and delusive promise of the State.

There is another reason—for we are talking plainly this afternoon—why I object to a State commission. I am not afraid of it; the New York Central road is not afraid of it; there is nothing in the business of the New York Central railroad, nothing in its management, that will not bear the scrutiny of the State. It is run with that business ability, rigid economy, sharp lookout to get business and do business, and constant watchfulness of the money which comes in and goes out, which enables it to live and pay these dividends these gentlemen complain of, notwithstanding the wildest and widest competition. The New York Central is run by honesty and brains. Eliminate intellect and integrity and it will never pay another dividend. What public interest is to be advanced by testing the question whether a commission shall run the railroad, or the railroad run the commission? We do not want to be put in a position where, at the behest of a commission of this State, we shall be compelled to run the road to put one party in power and the other party out of power. Do not deceive yourselves with the idea that such will not be the case. The conditions which exist in the State of New York apply nowhere else.

Massachusetts, Ohio, Michigan, all the States where they have these supervising commissioners are little teapots where you can lift the lids and look over the edge and see and count every leaf, compared with this great State with its 5,000,000 of people, with its great city of New York, with her demands and needs, with its other cities outstripping the largest cities of other commonwealths, and all the spoil of party, with conflicting interests struggling for the control of a State which is

an empire in itself, struggling for the control of the legislature, the State offices and boards, the public works and State prisons, and the handling and manipulating of vast patronage and millions of money. The temptation is too great for partizans to resist the opportunity to use every agency to get into power, and once in, to stay there. Do you think the corporations would resist? Gentlemen, do not mistake the nature of a corporation. A corporation is simply a score, or a 100, or a 1000 people putting their money into an enterprise, requiring more capital than any one of them possesses, and they elect directors and officers to conduct that business. The stockholders expect them to do one thing, use their best efforts to promote that business and to see that it is not injured. Now, the corporation under such circumstances is always, and at all times the most subservient and supple tool of the governing power. Talk about monopoly, talk about the grasping power of the corporation! The corporation stands with trembling knees in the presence of power, because power created and power can destroy it; power gave the pledge under which these people put their money into the enterprise, and power can violate the pledge and destroy the money which is in the enterprise. No courtier at the court of St. Petersburg is more observant of the temper of authority, than is the corporation whose life is dependent upon the will of the governing body. Now, then, if for the purpose of carrying a State or controlling a convention these three commissioners who are to stand between us and the legislature, who are to stand between us and the people, between us and harm, come to our office and say: "The necessities of the political situation require that certain political henchmen of the party shall receive employment upon your line," would they be denied? If they should come and say that certain useful henchmen of the party, useless in business, but useful in caucuses, must be placed upon the pay-roll, would they be denied? If they should indicate that at some centers, where a large number of men are employed, an obnoxious candidate against the machine must be beaten in the caucus, do you think there would fail to be enough votes in that caucus to mash him? Not much. (Laughter.) Now, the politics of the railroads of this State are absolutely colorless. Any superior officer on the line of the New York Central & Hudson River railroad who should threaten the humblest track walker at a dollar a day with the loss of his place if he did not vote for this or that candidate would have his head cut off as soon as the news got down to the Grand Central Depot. I have stood here battling and resisting the hostility of powerful senators and members who have made their support or opposition to measures calculated to help or injure the New York Central dependent entirely upon the removal of local agents of the company, faithful in their business, but politically obnoxious to these legislators. Mr. Vanderbilt has always, and without

regard to consequences, protected the employes of the company under such circumstances.

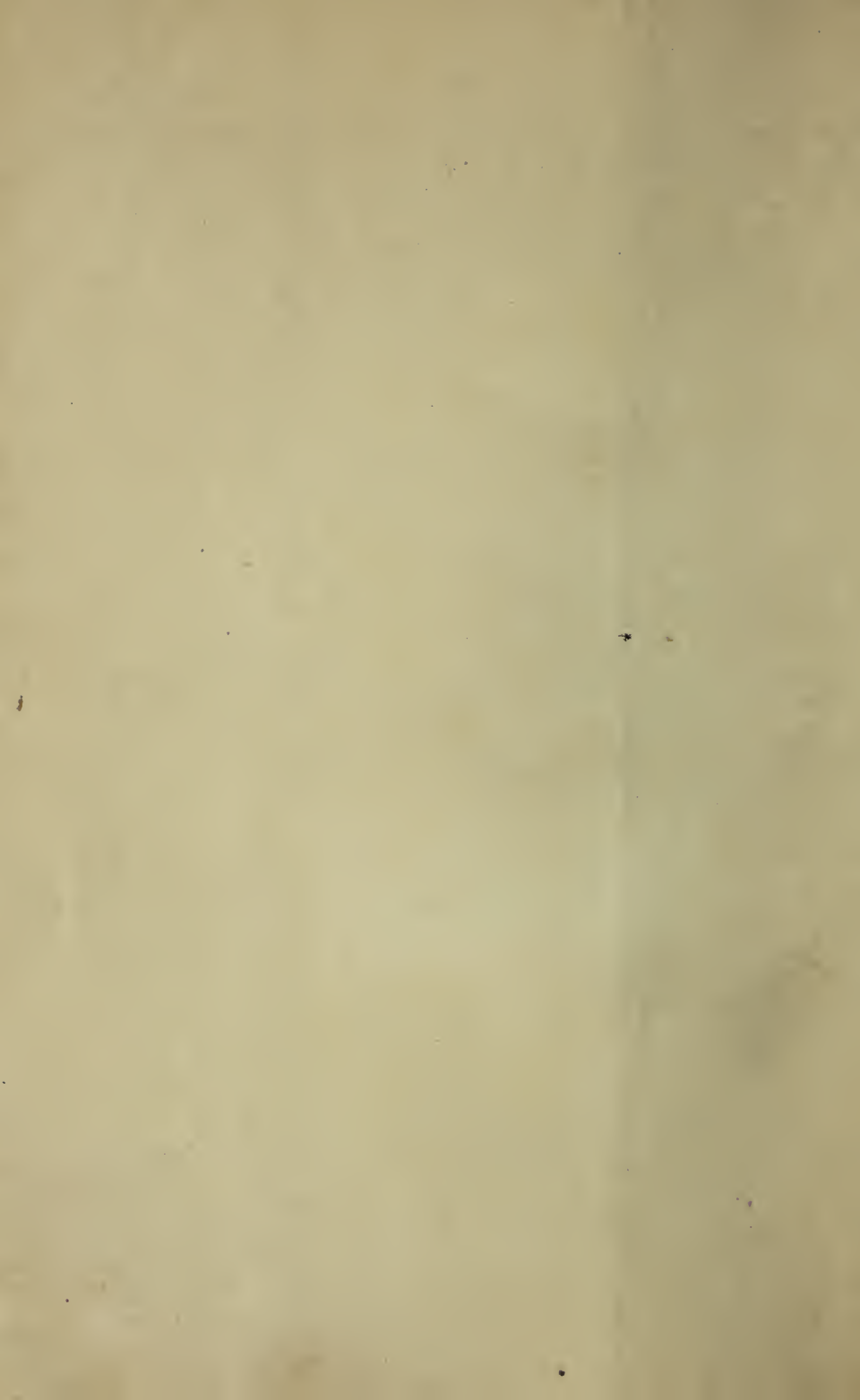
Remember, all railroad men are natural politicians. The business of a railroad in its sharp competition, in its contact with men, makes every agent, conductor, brakeman, baggageman, sandbank man, alert on all public questions, and active in the politics of his neighborhood, on one side or the other.

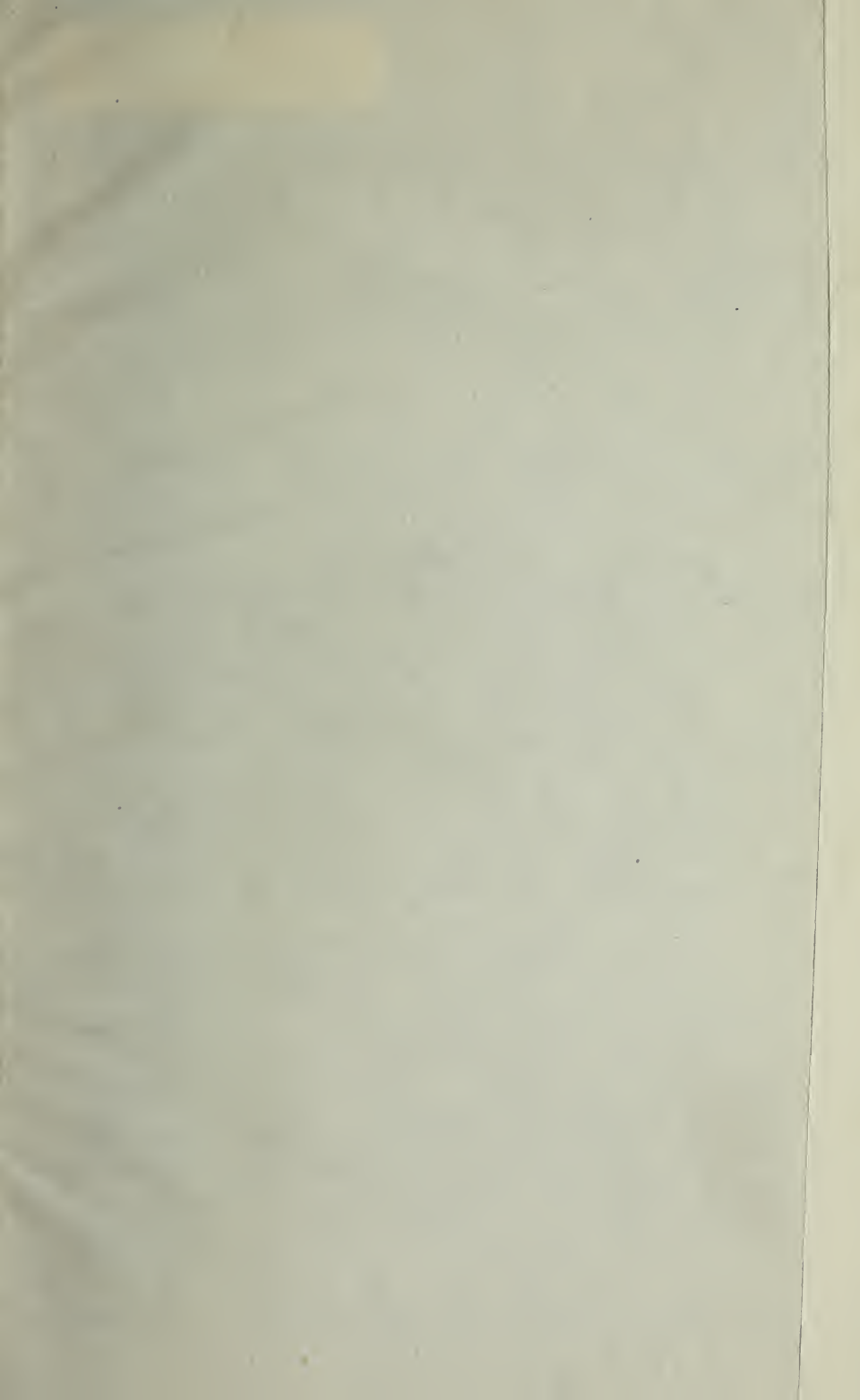
We do not care how he votes or acts, so long as he does not prostitute the road to carry his purposes in the caucus, or at the polls. If his enemy, in the party or out of it, wants that man removed on account of his vote or his views as a citizen, there is no power to do it. I have known municipal officers to say, "unless certain changes are made, which are required by the party exigencies at our place, you cannot rely upon local or municipal favor," and at the loss of thousands upon thousands of dollars a man whose place was not worth a breath, whose salary was under a thousand dollars a year, was protected in his rights because the president would not permit any single political consideration in a locality to dominate over the business interests of the road. (Applause.) But, gentlemen, let that dominating power be concentrated and centered in the State itself, represented by three political commissioners who can molest every branch of our business, leave us alone or interfere with us, cripple our energies or permit us to work out our own prosperity, and then we have no resource but to protect our stockholders, creditors and patrons by making the best terms with the commissioners we can.

While bald corruption may not characterize the relations of the company to the commission, this thing frequently happens. All their impetunious relatives, their "sisters and their cousins and their uncles and their aunts," find their way upon the pay-rolls of the corporation. All politicians have men dependent upon them, whose use and value in the party organization are thoroughly understood, and in some way they must be protected and cared for. Then, brothers-in-law, friends who cannot be denied; men in power, who must not be offended, have interests in patent rights and devices. The commissioners have the power to recommend their use. Where they do not choose to do that, there are a hundred ways in which a commissioner can indicate that his pleasure or displeasure will follow the company's treatment of the application. It is comparatively easy for the companies, at some expense and loss, at great annoyance and discomfort, to secure perpetual immunity. But you will inaugurate a great and growing public scandal, abhorrent to the sense and judgment of every right minded man.

Gentlemen of the committee, I trust, that in the consideration of these great questions, you will not be governed by hasty judgment, or baseless prejudice. Remember that it is not the corporation which stands at

the bar of this house. It is not the railroad alone to be executed or go free, but every business and industry in the State, the commonwealth itself, have all their interest at stake. Prosperity everywhere prevails, and ninety-nine hundredths of the people, the localities, and the enterprises of the State are satisfied; the little isolated exceptional cases of discrimination or of injury, cannot be corrected by any general law, and in making the attempt, take care, that in amputating the little finger, you do not destroy the life of the whole body. Remember that with the inter-dependent relations of the railway system of this State, in the great western traffic and the local business of the State itself, both of which contribute to make her the empire in population, in commerce, in finance, you cannot afford so to tamper or interfere, as to leave New York in a condition where she will be fatally injured. Mr. Sterne criticised Mr. Blanchard, because he said that the railroads, if let alone, will make this State greater, and greater every year, as insolent and king like; but Mr. Sterne had his mind full of continental ideas and German notions of governmental control and bureaucratic government. Mr. Sterne did not take into consideration the one dominant, controlling fact that the New York roads under conditions of longer haul and greater expense at their seaboard, are doing their best to retain for themselves and the State, and the city of New York, the business of the continent, and unless fatally restricted, and lifted out of the railway system of the country by your action, will retain it, and make and keep New York State and New York city, the one, Empire among States, and the other, metropolis of the western hemisphere, and the most important city in the world. (Great applause.)







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